

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) U02-0208.039
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed Name _____	Application Number 10/604,982	Filed August 29, 2003
First Named Inventor Findikli		
Art Unit 2617	Examiner Julie Stein	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.



Signature

Steven B. Phillips

Typed or printed name

attorney or agent of record.

919-286-8000

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Telephone number

attorney or agent acting under 37 CFR 1.34.

January 3, 2007

Registration number if acting under 37 CFR 1.34 _____

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Findikli et al.)	
Serial No.:	10/604,982)	Confirmation No. 1981
Filing Date:	August 29, 2003)	
Examiner:	Julie Stein)	
Art Unit:	2617)	
Attorney Docket:	U02-0208.39)	
Title:	METHOD AND SYSTEM FOR REGISTRATION OF LICENSED MODULES IN MOBILE DEVICES))
)			

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants submit that the current and preceding office actions issued by the Examiner in the present application contain clear errors in the Examiner's rejections as well as omissions of one or more essential elements needed for a *prima facie* rejection under 35 U.S.C. § 102(a) and/or 35 U.S.C. § 103(a).

The present invention is related to methods, apparatus, and a mobile device for detecting the initial access of a software package that has been previously installed in the mobile device and registering its use. The claimed invention also includes the use of specific messages to accomplish this registration, and the collection of module parameters to aid in the process. The registration process is substantially transparent to the user.

The Examiner rejects claims 1, 3, 5, 6, 10, 11, 18, 20, 26, 29, 30, 36, 38, and 39 under 35 USC § 102(a) as being anticipated by European Patent 1 246 428 to Nokia ("Nokia").

Applicants reiterate their arguments from the third and fourth paragraphs of the office action response of July 13, 2006. All of Applicants' independent claims recite that the registering of the licensed software package is "substantially transparent" to the user of the mobile device. In the gaming system of Nokia, a user must affirmatively decide to acquire new levels of the game, and "initiate the request for a new games download" using the appropriate links and menus. Col. 1, lines 48-51 of Nokia. The fact that some additional steps carried out by the mobile terminal of

Nokia' are automatic does not alter the fact that the user having to affirmatively decide to initiate the download is not substantially transparent within the meaning of that phrase as used in Applicants' claims. Additionally, Nokia does not disclose any processes or messages that are coordinated with the initial access of any software module; only the download of software not already installed.

Nokia is about downloading software to implement additional levels of a game. Users download that software irrespective of whether the software is ever used. Any registration messages would be completely redundant and un-needed in the system of Nokia. Applicants' invention, as claimed, is about registering already-installed software modules that are actually used by a user of a mobile terminal. This concept is completely disjunct from the teachings of Nokia.

The Examiner repeatedly states that specific claim terms are "broad enough" to encompass teachings in Nokia. However, in order to a rejection under Section 102 to stand, the Examiner must demonstrate that the identical invention is "shown in as complete detail as contained in the . . . claim," and that the elements are "arranged as required by the claim . . ." MPEP § 2131. The Examiner has failed to meet this burden. Applicants' claims are very precise, and the Examiner has not shown that the precise arrangement of claim elements is present in Nokia. As but one example, Applicants' claims 1 and 18 recite the detection of a software package "in a processing platform in the mobile device." Similarly, Applicants' claim 26 recites that a mobile device "comprises" the licensed software package. The messaging in Nokia takes place while the game file is on a server and not in the mobile device. Thus, it is impossible for the disclosure of Nokia to show Applicants' invention in "as complete detail as contained in the . . . claim" and/or the elements of Applicants' claims "arranged as required by the claim."

Applicants acknowledge that claims 7, 31, and 40 contain allowable subject matter. Applicants further acknowledge that claims 2, 8, 9, 16, 17, 19, 27, 32, 37, 43, and 44 stand rejected under 35 USC § 103(a) as being obvious in view of Nokia and combination with Applicants' admitted prior art regarding encryption. Applicants note that in making this Section 103 rejection, the Examiner relies on Nokia applied to the independent and/or intervening claims

as discussed above. Thus, the arguments presented above are applicable, and all of these dependent claims are patentable under Section 103 for at least the same reasons presented above.

As the Examiner's rejections have been shown to be in clear error and lack essential elements of a *prima facie* Section 102 rejection or a *prima facie* obviousness rejection, it is requested that these claims be allowed to issue.

Respectfully submitted,

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